BEFORE THE MEDICAL BOARD OF CALIFORNIA DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA

In the Matter of the Accusation Against:)	
LAWRENCE ALAN MISHLOVE, M.D.) Case No.	16-2009-202239
Physician's and Surgeon's)	
Certificate No. A-52846	<i>)</i>)	
Respondent.))	

DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on February 23, 2011.

IT IS SO ORDERED January 24, 2011.

MEDICAL BOARD OF CALIFORNIA

y: ___

Hedy Chang, Chair

Panel B /

3. On or about February 23, 1994, the Medical Board of California issued Physician's and Surgeon's Certificate No. A 52846 to Lawrence Alan Mishlove, M.D. The Certificate is renewed and current with an expiration date of October 31, 2011, and is in SUSPENDED STATUS based on orders issued on November 24, 2009, and January 26, 2010, pursuant to Business and Professions Code section 2310, subdivision (a).

JURISDICTION

- A Notice of Out of State Suspension Order was filed before the Medical Board of California on November 24, 2009, based on action taken by the Louisiana State Board of Medical Examiners. Respondent requested a hearing on the issue of penalty on December 23, 2009. A copy of the Notice of Out of State Suspension Order is attached as exhibit A and is incorporated herein by reference.
- 5. A Supplemental Notice of Out of State Suspension Order was filed before the Medical Board of California on January 26, 2010, based on action taken by the Florida Board of Medicine. Respondent requested a hearing on the issue of penalty on February 2, 2010. A copy of the Supplemental Notice of Out of State Suspension Order is attached as exhibit B and is incorporated herein by reference.
- 6. Accusation No. 16-2009-202239, was filed before the Medical Board of California, and is currently pending against Respondent. The Accusation and all other statutorily required documents were served on Respondent on February 4, 2010. A copy of Accusation No. 16-2009-202239 is attached as exhibit C and is incorporated herein by reference.

ADVISEMENT AND WAIVERS

- Respondent has carefully read and understands the charges and allegations in
 Accusation No. 16-2009-202239. Respondent has also carefully read and understands the effects of this Stipulated Settlement and Disciplinary Order.
- 8. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel

the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision, and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

9. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

- 10. Respondent does not contest that, at an administrative hearing, Complainant could establish a prima facie case with respect to the charges and allegations contained in Accusation No. 16-2009-202239.
- Respondent agrees that his Physician's and Surgeon's Certificate is subject to discipline and he agrees to be bound by the imposition of discipline by the Board as set forth in the Disciplinary Order below.
- 12. Respondent agrees that if he ever petitions for early termination or modification of probation, or if the Board ever petitions for revocation of probation, all of the charges and allegations contained in Accusation No. 16-2009-202239 shall be deemed true, correct and fully admitted by Respondent for purposes of that proceeding or any other licensing proceeding involving Respondent in the State of California.

RESERVATION

13. The admissions made by Respondent herein are only for the purposes of this proceeding, or any other proceedings in which the Medical Board of California or other professional licensing agency is involved, and shall not be admissible in any other criminal or civil proceeding.

CONTINGENCY

Respondent understands and agrees that counsel for Complainant and the staff of the Medical Board of California may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek

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to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

- Respondent understands and agrees that until the stipulation is adopted as the 15. Decision and Order, Respondent will continue to be on SUSPENDED status until the effective date of the Decision and Order.
- The foregoing Stipulated Settlement and Disciplinary Order will encompass 16. Accusation No. 16-2009-202239 and all investigations pending against Respondent.
- The parties understand and agree that facsimile copies of this Stipulated Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same force and effect as the originals.
- In consideration of the foregoing admissions and stipulations, the parties agree that 18. the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 52846 issued to Respondent Lawrence Alan Mishlove, M.D. is revoked. However, the revocation is stayed and Respondent is placed on probation for five (5) years on the following terms and conditions.

- ACTUAL SUSPENSION As part of probation, Respondent is suspended from 1. the practice of medicine for sixty (60) days. However, as Respondent has been suspended from the practice of medicine since November 24, 2009, Respondent will be given credit for the sixty (60) days suspension.
- CONTROLLED SUBSTANCE ABSTAIN FROM USE Respondent shall 2. abstain completely from the personal use or possession of controlled substances as defined in the California Uniform Controlled Substances Act, dangerous drugs as defined by Business and

Professions Code section 4022, and any drugs requiring a prescription. This prohibition does not apply to medications lawfully prescribed to Respondent by another practitioner for a bona fide illness or condition.

Within 15 calendar days of receiving any lawful prescription medications, Respondent shall notify the Board or its designee of the: issuing practitioner's name, address, and telephone number, medication name and strength; and issuing pharmacy name, address, and telephone number.

- 3. <u>ALCOHOL ABSTAIN FROM USE</u> Respondent shall abstain completely from the use of products or beverages containing alcohol.
- 4. <u>BIOLOGICAL FLUID TESTING</u> Respondent shall immediately submit to biological fluid testing, at Respondent's expense, upon request of the Board or its designee. Prior to practicing medicine, Respondent shall, at Respondent's expense, contract with a laboratory or service approved in advance by the Board or its designee that will conduct random, unannounced, observed, urine testing a minimum of four times each month. The contract shall require results of the urine tests to be transmitted by the laboratory or service directly to Board or its designee within four hours of the results becoming available. Failure to maintain this laboratory or service during the period of probation is a violation of probation. A certified copy of any laboratory test result may be received in evidence in any proceedings between the Board and Respondent. Failure to submit to or comply with the time frame for submitting to, or failure to complete the required biological fluid testing, is a violation of probation.
 - 5. <u>ETHICS COURSE</u> Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a course in ethics, at Respondent's expense, approved in advance by the Board or its designee. Failure to successfully complete the course during the first year of probation is a violation of probation.

An ethics course taken after the acts that gave rise to the charges in the Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board or its designee, be accepted towards the fulfillment of this condition if the course would have been approved by the Board or its designee had the course been taken after the effective date of this Decision.

Respondent shall submit a certification of successful completion to the Board or its designee not later than 15 calendar days after successfully completing the course, or not later than 15 calendar days after the effective date of the Decision, whichever is later.

6. <u>PSYCHIATRIC EVALUATION</u> Within 30 calendar days of the effective date of this Decision, and on whatever periodic basis thereafter may be required by the Board or its designee, Respondent shall undergo a psychiatric evaluation (and psychological testing, if deemed necessary) by a Board appointed, board certified psychiatrist who shall consider any information provided by the Board or designee and any other information the psychiatrist deems relevant, and shall furnish a written evaluation report to the Board or its designee. Psychiatric evaluations conducted prior to the effective date of the Decision shall not be accepted towards the fulfillment of this requirement. Respondent shall pay the cost of all psychiatric evaluations and psychological testing.

Respondent shall comply with all restrictions or conditions recommended by the evaluating psychiatrist within 15 calendar days after being notified by the Board or its designee. Failure to undergo and complete a psychiatric evaluation and psychological testing, or comply with the required additional conditions or restrictions, is a violation of probation.

7. PSYCHOTHERAPY Within 60 calendar days of the effective date of this Decision, Respondent shall submit to the Board or its designee for prior approval the name and qualifications of a board certified psychiatrist or a licensed psychologist who has a doctoral degree in psychology and at least five years of postgraduate experience in the diagnosis and treatment of emotional and mental disorders. Upon approval, Respondent shall undergo and continue psychotherapy treatment, including any modifications to the frequency of psychotherapy, until the Board or its designee deems that no further psychotherapy is necessary.

The psychotherapist shall consider any information provided by the Board or its designee and any other information the psychotherapist deems relevant and shall furnish a written evaluation report to the Board or its designee. Respondent shall cooperate in providing the psychotherapist any information and documents that the psychotherapist may deem pertinent.

Respondent shall have the treating psychotherapist submit quarterly status reports to the

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Board or its designee. The Board or its designee may require Respondent to undergo psychiatric evaluations by a Board-appointed, board certified psychiatrist. If, prior to the completion of probation, Respondent is found to be mentally unfit to resume the practice of medicine without restrictions, the Board shall retain continuing jurisdiction over Respondent's license and the period of probation shall be extended until the Board determines that Respondent is mentally fit to resume the practice of medicine without restrictions.

Respondent shall pay the cost of all psychotherapy and psychiatric evaluations. Failure to undergo and continue psychotherapy treatment, or comply with any required modification in the frequency of psychotherapy, is a violation of probation.

8. <u>MEDICAL EVALUATION AND TREATMENT</u> Within 30 calendar days of the effective date of this Decision, and on a periodic basis thereafter as may be required by the Board or its designee, Respondent shall undergo a medical evaluation by a Board-appointed physician who shall consider any information provided by the Board or designee and any other information the evaluating physician deems relevant and shall furnish a medical report to the Board or its designee.

Following evaluation, Respondent shall comply with all restrictions or conditions recommended by the evaluating physician within 15 calendar days after being notified by the Board or its designee. If Respondent is required by the Board or its designee to undergo medical treatment, Respondent shall within 30 calendar days of the requirement notice, submit to the Board or its designee for prior approval the name and qualifications of a treating physician of Respondent's choice. Upon approval of the treating physician, Respondent shall within 15 calendar days undertake medical treatment and shall continue such treatment until further notice form the Board or its designee.

The treating physician shall consider any information provided by the Board or its designee and any other information the treating physician may deem pertinent prior to commencement of treatment. Respondent shall have the treating physician submit quarterly reports to the Board or its designee indicating whether or not the Respondent is capable of practicing medicine safely. Respondent shall provide the Board or its designee with any and all



medical records pertaining to treatment, that the Board or its designee deems necessary.

If, prior to the completion of probation, Respondent is found to be physically incapable of resuming the practice of medicine without restrictions, the Board shall retain continuing jurisdiction over Respondent's license and the period of probation shall be extended until the Board determines that Respondent is physically capable of resuming the practice of medicine without restrictions. Respondent shall pay the cost of the medical evaluation(s) and treatment.

Failure to undergo and continue medical treatment or comply with the required additional conditions or restrictions is a violation of probation.

9. MONITORING – PRACTICE Within 30 calendar days of the effective date of this Decision, Respondent shall submit to the Board or its designee for prior approval as a practice monitor the name and qualifications of one or more licensed physicians and surgeons whose licenses are valid and in good standing, and who are preferably American Board of Medical Specialties (ABMS) certified. A monitor shall have no prior or current business or personal relationship with Respondent, or other relationship that could reasonably be expected to compromise the ability of the monitor to render fair and unbiased reports to the Board, including, but not limited to, any form of bartering, shall be in Respondent's field of practice, and must agree to serve as Respondent's monitor. Respondent shall pay all monitoring costs.

The Board or its designee shall provide the approved monitor with copies of the Decision(s) and Accusation(s), and a proposed monitoring plan. Within 15 calendar days of receipt of the Decision(s), Accusation(s), and proposed monitoring plan, the monitor shall submit a signed statement that the monitor has read the Decision(s) and Accusation(s), fully understands the role of a monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor disagrees with the proposed monitoring plan, the monitor shall submit a revised monitoring plan with the signed statement.

Within 60 calendar days of the effective date of this Decision, and continuing throughout probation, Respondent's practice shall be monitored on a quarterly basis by the approved monitor. Respondent shall make all records available for immediate inspection and copying on the premises by the monitor at all times during business hours, and shall retain the records for the

entire term of probation.

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The monitor(s) shall submit a quarterly written report to the Board or its designee which includes an evaluation of Respondent's performance, indicating whether Respondent's practices are within the standards of practice of medicine, and whether Respondent is practicing medicine safely. It shall be the sole responsibility of Respondent to ensure that the monitor submits the quarterly written reports to the Board or its designee within 10 calendar days after the end of the preceding quarter.

If the monitor resigns or is no longer available, Respondent shall, within five calendar days of such resignation or unavailability, submit to the Board or its designee, for prior approval, the name and qualifications of a replacement monitor who will be assuming that responsibility within 15 calendar days. If Respondent fails to obtain approval of a replacement monitor within 60 days of the resignation or unavailability of the monitor, Respondent shall be suspended from the practice of medicine until a replacement monitor is approved and prepared to assume immediate monitoring responsibility. Respondent shall cease the practice of medicine within three calendar days after being so notified by the Board or designee.

In lieu of a monitor, Respondent may participate in a professional enhancement program equivalent to the one offered by the Physician Assessment and Clinical Education Program at the University of California, San Diego School of Medicine, that includes, at minimum, quarterly chart review, semi-annual practice assessment, and semi-annual review of professional growth and education. Respondent shall participate in the professional enhancement program at Respondent's expense during the term of probation.

Failure to maintain all records, or to make all appropriate records available for immediate inspection and copying on the premises, or to comply with this condition as outlined above is a violation of probation.

10. <u>NOTIFICATION</u> Prior to engaging in the practice of medicine, the Respondent shall provide a true copy of the Decision and Accusation to the Chief of Staff or the Chief Executive Officer at every hospital where privileges or membership are extended to Respondent, at any other facility where Respondent engages in the practice of medicine, including all

physician and locum tenens registries or other similar agencies, and to the Chief Executive

Officer at every insurance carrier which extends malpractice insurance coverage to Respondent.

Respondent shall submit proof of compliance to the Board or its designee within 15 calendar days.

This condition shall apply to any change(s) in hospitals, other facilities or insurance carrier.

- 11. <u>SUPERVISION OF PHYSICIAN ASSISTANTS</u> During probation, Respondent is prohibited from supervising physician assistants.
- 12. <u>OBEY ALL LAWS</u> Respondent shall obey all federal, state and local laws, all rules governing the practice of medicine in California, and remain in full compliance with any court ordered criminal probation, payments and other orders.
- declarations under penalty of perjury on forms provided by the Board, stating whether there has been compliance with all the conditions of probation. Respondent shall submit quarterly declarations not later than 10 calendar days after the end of the preceding quarter.
- 14. PROBATION UNIT COMPLIANCE Respondent shall comply with the Board's probation unit. Respondent shall, at all times, keep the Board informed of Respondent's business and residence addresses. Changes of such addresses shall be immediately communicated in writing to the Board or its designee. Under no circumstances shall a post office box serve as an address of record, except as allowed by Business and Professions Code section 2021(b).

Respondent shall not engage in the practice of medicine in Respondent's place of residence. Respondent shall maintain a current and renewed California physician's and surgeon's certificate.

Respondent shall immediately inform the Board, or its designee, in writing, of travel to any areas outside the jurisdiction of California which lasts, or is contemplated to last, more than 30 calendar days.

15. <u>INTERVIEW WITH THE DIVISION. OR ITS DESIGNEE</u> Respondent shall be available in person for interviews either at Respondent's place of business or at the probation unit

office, with the Board or its designee, upon request at various intervals, and either with or without prior notice throughout the term of probation.

16. <u>RESIDING OR PRACTICING OUT-OF-STATE</u> In the event Respondent should leave the State of California to reside or to practice, Respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of departure and return. Non-practice is defined as any period of time exceeding 30 calendar days in which Respondent is not engaging in any activities defined in Sections 2051 and 2052 of the Business and Professions Code.

All time spent in an intensive training program outside the State of California which has been approved by the Board or its designee shall be considered as time spent in the practice of medicine within the State. A Board-ordered suspension of practice shall not be considered as a period of non-practice. Periods of temporary or permanent residence or practice outside California will not apply to the reduction of the probationary term. Periods of temporary or permanent residence or practice outside California will relieve Respondent of the responsibility to comply with the probationary terms and conditions with the exception of this condition and the following terms and conditions of probation: Obey All Laws and Probation Unit Compliance.

Respondent's certificate shall be automatically cancelled if Respondent's periods of temporary or permanent residence or practice outside California total two years. However, Respondent's license shall not be cancelled as long as Respondent is residing and practicing medicine in another state of the United States and is on active probation with the medical licensing authority of that state, in which case the two year period shall begin on the date probation is completed or terminated in that state.

In the event Respondent resides in the State of California and for any reason Respondent stops practicing medicine in California, Respondent shall notify the Board or its designee in writing within 30 calendar days prior to the dates of non-practice and return to practice. Any period of non-practice within California, as defined in this condition, will not apply to the reduction of the probationary term and does not relieve Respondent of the responsibility to comply with the terms and conditions of probation. Non-practice is defined as any period of time exceeding 30 calendar

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days in which Respondent is not engaging in any activities defined in sections 2051 and 2052 of the Business and Professions Code.

All time spent in an intensive training program which has been approved by the Board or its designee shall be considered time spent in the practice of medicine. For purposes of this condition, non-practice due to a Board-ordered suspension or in compliance with any other condition of probation, shall not be considered a period of non-practice.

Respondent's certificate shall be automatically cancelled if Respondent resides in California and for a total of two years, fails to engage in California in any of the activities described in Business and Professions Code sections 2051 and 2052.

- COMPLETION OF PROBATION Respondent shall comply with all financial 18. obligations (e.g., probation costs) not later than 120 calendar days prior to the completion of probation. Upon successful completion of probation, Respondent's certificate shall be fully restored.
- VIOLATION OF PROBATION Failure to fully comply with any term or 19. condition of probation is a violation of probation. If Respondent violates probation in any respect, the Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an Accusation, Petition to Revoke Probation, or an Interim Suspension Order is filed against Respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.
- LICENSE SURRENDER Following the effective date of this Decision, if 20. Respondent ceases practicing due to retirement, health reasons or is otherwise unable to satisfy the terms and conditions of probation, Respondent may request the voluntary surrender of Respondent's certificate. The Board reserves the right to evaluate Respondent's request and to exercise its discretion whether or not to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its designee and Respondent shall no longer practice medicine. Respondent will no

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longer be subject to the terms and conditions of probation and the surrender of Respondent's certificate shall be deemed disciplinary action. If Respondent re-applies for a medical license, the application shall be treated as a petition for reinstatement of a revoked certificate.

21 PROBATION MONITORING COSTS Respondent shall pay the costs associated with probation monitoring each and every year of probation, as designated by the Board, which may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of California and delivered to the Board or its designee no later than January 31 of each calendar year. Failure to pay costs within 30 calendar days of the due date is a violation of probation.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order. I understand the stipulation and the effect it will have on my Physician and Surgeon Certificate. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

DATED: 12-5-10

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LAWRENCE ALAN MISHLOVE, M.D.

Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Medical Board of California of the Department of Consumer Affairs.

Dated: 12/5/10

Respectfully Submitted,

EDMUND G. BROWN JR.
Attorney General of California
PAUL C. AMENT
Supervising Deputy Attorney General

ESTHER P. KIM
Deputy Attorney General
Attorneys for Complainant

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STIPULATED SETTLEMENT

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Exhibit A

Notice of Out of State Suspension Order

STATE AND CONSUMER SERVICES AGENCY - Department of Consumer Affairs

Arnoid Schwarzenegger, Governor



P. 15

MEDICAL BOARD OF CALIFORNIA

Discipline Coordination Unit



November 24, 2009

Lawrence Alan Mishlove, M.D. P.O. Box 572860 Tarzana, CA 91357

RE: NOTICE OF OUT OF STATE SUSPENSION ORDER

California License: A-52846

16-2009-202239 Case Number:

Dear Dr. Mishlove:

California Business and Professions Code section 2310 authorizes the Medical Board of California to immediately suspend the California medical license of any physician and surgeon whose medical license has been suspended or revoked in any other state or by any agency of the federal government. A copy of Business and Professions Code section 2310 is enclosed for your review.

The Medical Board of California has determined, upon review of certified documents from the Louisiana State Board of Medical Examiners, that your Louisiana license to practice medicine was suspended on September 23, 2009. Based on this suspension, your California medical license has been suspended effective immediately. This action will be reported to the National Practitioner Data Bank and the Federation of State Medical Boards.

You have a right to a hearing on the issue of penalty, as provided by Business and Professions Code section 2310(c). This bearing will be held within 90 days from the date of request. You may send this request to:

Jose Guerrero Supervising Deputy Attorney General Department of Justice 455 Golden Gate Avenue, Suite 11000 San Francisco, CA 94102

Should the status of your medical license in Louisiana change, please notify us immediately. If you have any questions regarding this matter, please contact Pamela Moslier at (916) 263-2419.

Sincerely,

BARBARA JOHNSTON

Executive Director

Enclosure

2005 Evergreen St., Suite 1200, Sacramento, CA 95815-3831 FAX: (916) 263-2437 www.mbc.co.gov

Exhibit B

Supplemental Notice of Out of State Suspension Order

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STATE AND CONSUMER SERVICES ... JENCY - Department of Consumer Affairs

Arnold Schwarzenegger, Governor



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MEDICAL BOARD OF CALIFORNIA

Discipline Coordination Unit



January 26, 2010

Lawrence Alan Mishlove, M.D. P.O. Box 572860 Tarzana, CA 91357

RE: SUPPLEMENTAL NOTICE OF OUT OF STATE SUSPENSION ORDER

California License: A-52846

Case Number: 16-2009-202239

Dear Dr. Mishlove:

California Business and Professions Code section 2310 authorizes the Medical Board of California to immediately suspend the California medical license of any physician and surgeon whose medical license has been suspended or revoked in any other state or by any agency of the federal license has been suspended or revoked in any other state or by any agency of the federal government. A copy of Business and Professions Code section 2310 is enclosed for your review.

You have previously been notified that effective November 24, 2009, the Medical Board of California suspended your California medical license based upon the suspension of your Louisiana license to practice medicine. As a further basis for suspension, the Medical Board of California has been notified that the Florida Board of Medicine suspended your license to practice medicine on November 20, 2009. Based upon these suspensions, your California inedical license shall remain in a suspended status. This further action will be reported to the National Practitioner Data Bank and the Federation of State Medical Boards.

You have a right to a hearing on the issue of penalty, as provided by Business and Professions Code section 2310(c). This hearing will be held within 90 days from the date of request. You may send this request to:

Esther P. Kirr.

Deputy Attorney General

Department of Justice

300 South Spring Street, Suite 1702

Los Angeles, CA 90013

Should the status of your medical licenses in either Louisiana or Florida change, please notify us immediately. If you have any questions regarding this matter, please contact Deputy Attorney General Esther P. Kim at (213) 897-2872.

Sincerely,

BARBARA JOHNSTON

Executive Director

Enclosure

2005 Evergreen St., Suite 1200, Sacramento, CA 95815-3831 FAX: (916) 263-2437 www.mbc.ca.gov

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Exhibit C

Accusation No. 16-2009-202239

	FILED STATE OF CALIFORNIA		
EDMUND G. BROWN JR. Attorney General of California	MEDICAL BOARD OF CALIFORNIA SACRAMENTO ELECTRIC # 2010		
PAUL C AMENT	BY griff Marte		
ESTHER P. KIM			
State Bar No. 225418			
300 South Spring Street, Suite 1702 Los Angeles, California 90013			
Telephone: (213) 897-2872			
E-mail: Esther.Kim@doj.ca.gov			
Medical Board of California	·		
BEFORE THE MEDICAL BOARD OF CALIFORNIA			
DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA			
,			
	Case No. 16-2009-202239		
In the Matter of the Accusation Against:			
	ACCUSATION		
Tarzana, California 91357			
Physician's and Surgeon's Certificate No. A 52846			
Respondent			
The Complainant alleges:			
	1. Complainant Linda K. Whitney is the Interim Executive Director of the		
Medical Board of California, Department of Consumer Affairs, and brings this Accusation solely			
in her official capacity.			
2. On or about February 23, 1994	4, Physician's and Surgeon's Certificate		
No. A 52846 was issued by the Medical Board of California to Lawrence A. Mishlove, M.D.			
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October 31, 2011, and is in SUSPENDED STATUS based on an order issued on November 24,			
2009, pursuant to Business and Professions Code section 2310(a).			
2009, pursuant to Business and Professions Code ser	cum zuro(a).		
	Attorney General of California PAUL C. AMENT Supervising Deputy Attorney General ESTHER P. K.M Deputy Attorney General State Bar No. 225418 300 South Spring Street, Suite 1702 Los Angeles, California 90013 Telephone: (213) 897-2872 Fax: (213) 897-9395 E-mail: Esther.Kim@doj.ca.gov Attorneys for Complainant Medical Board of California BEFORE TE MEDICAL BOARD OF DEPARTMENT OF CONS STATE OF CALIF In the Matter of the Accusation Against: LAWRENCE A. MISHLOVE, M.D., P.O. Box 572860 Tarzana, California 91357 Physician's and Surgeon's Certificate No. A 52846 Respondent. The Complainant alleges: 1. Complainant Linda K. Whitney Medical Board of California, Department of Consum in her official capacity. 2. On or about February 23, 1994 No. A 52846 was issued by the Medical Board of C (hereinafter "Respondent"). The certificate is renew October 31, 2011, and is in SUSPENDED STATUS		

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JURISDICTION

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This Accusation is brought before the Medical Board of California, 3. (hereinafter the "Board") under the authority of the following sections of the California Business and Professions Code (hereinafter "Code") and/or other relevant statutory enactment:

Section 2227 of the Code provides in part that the Board may revoke, suspend for a period not to exceed one year, or place on probation, the license of any licensee who has been found guilty under the Medical Practice Act, and may recover the costs of probation monitoring.

Section 2305 of the Code provides, in part, that the revocation, suspension, or other discipline, restriction or limitation imposed by another state upon a license to practice medicine issued by that state, that would have been grounds for discipline in California under the Medical Practice Act, constitutes grounds for discipline for unprofessional conduct.

Section 141 of the Code provides:

For any licensee holding a license issued by a board underthe jurisdiction of a department, a disciplinary action taken by another state, by any agency of the federal government, or by another country for any act substantially related to the practice regulated by the California license, may be ground for disciplinary action by the respective state licensing board. A certified copy of the record of the disciplinary action taken against the licensee by another state, an agency of the federal government, or by another country shall be conclusive evidence of the events related therein.

Nothing in this section shall preclude a board from applying a specific statutory provision in the licensing act administered by the board that provides for discipline based upon a disciplinary action taken against the licensee by another state, an agency of the federal government, or another country."

As used herein, the term "Board" means the Medical Board of California. As used herein, "Division of Medica Quality" shall also be deemed to refer to the Board.

Accusation



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FIRST CAUSE FOR DISCIPLINE

(Discipline, Restriction, or Limitation Imposed by Another State)

- On or about November 20, 2009, the State of Florida Department of Health issued an Order of Emergency Suspension of License ("Emergency Suspension") regarding Respondent's license to practice medicine in the State of Florida. The State of Florida Department of Health made the following factual findings:
- The Professionals Resource Network (PRN) is the impaired practitioners 5. program for the State of Florida Board of Medicine. PRN is a program that monitors the evaluation, care, and treatment of impaired healthcare professionals. PRN also oversees random drug screens and provides for the exchange of information between treatment providers and the Department of Health for the protection of the public.
- On or about October 29, 2007, Respondent was evaluated by the 6. Department of Health approved addiction psychiatrist, Jason M. Jerry, M.D. Dr. Jerry opined in part that Respondent's behavior calls into question his ability to practice with a reasonable degree of safety. Dr. Jerry further opined that Respondent should only be allowed to return to practice under the close supervision of the Florida Professionals Resource Network (PRN).
- On or about January 11, 2008, Respondent entered into an agreement with 7. PRN wherein he agreed, in part to:
 - Participate in a random drug, hair testing, and/or blood screen within 12 hours of notification;
 - Abstain completely from the use of any medications, alcohol, and other Ъ. mood altering substances including over the counter medications unless ordered by his primary physician;
 - Notify PRN of any changes in physical or mental health, address, or C. employment;
 - Notify PRN in the event of use of mood altering substances without a d. prescription;
 - Provide appropriate release forms for urine screen results, treatment center e.

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Accusation



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1	records, therapist reports, and other written and verbal information required				
2	to comply with the terms of the contract;				
3	f. Withdraw from practice for evaluation at the request of PRN, if any				
4	problem develops that potentially interferes with his professional practice;				
5	and				
6	g. Return-messages left by PRN staff within 24 hours.				
7	8. On or about September 14, 2009, PRN voided Respondent's contract due				
- 1	to non-compliance.				
9	9. On or about September 28, 2009, Respondent submitted a hair sample				
10	which tested positive for cocaine.				
11	10. A true and correct copy of the Order of Emergency Suspension of License				
12	by the State of Florida Department of Health is attached hereto as Exhibit A.				
13	SECOND CAUSE FOR DISCIPLINE				
14	(Unprofessional Conduct)				
15	11. Respondent's conduct and action of the State of Florida Department of				
<u>1</u> 6	Health as set forth in paragraphs 4 through 10, above, constitute unprofessional conduct within				
17	the meaning of section 2305 and conduct subject to discipline within the meaning of section				
18	141(a).				
19	PRAYER				
20	WHEREFORE, the complainant requests that a hearing be held on the matters				
21	herein alleged, and that following the hearing, the Board issue a decision:				
22	 Revoking or suspending Physician's and Surgeon's Certificate Number 				
23	A 52846 heretofore issued to Respondent Lawrence A. Mishlove, M.D.;				
24					
2.5	2. Revoking, suspending, or denying approval of the Respondent's authority				
26	to supervise physician assistants;				
27	3. Ordering Respondent, if placed on probation, to pay the costs probation				
2	monitoring; and				
	4 Accusatio				

1	4. Taking such other	her and further action as the Board deems necessary and
2	. proper.	
3	DATED: February 4, 2010	
4	·	pulled.
5	-	LINDA K. WHITNEY Interim Executive Director Medical Board of California
. 6		Medical Board of California Department of Consumer Affairs State of California
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8		Complainant
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EXHIBIT A

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FILED DATE -STATE OF FLORIDA DEPARTMENT OF HEALTH.

Final Order No. DOH 09-2565

In Re: The Emergency Suspension of the License of Lawrence A. Mishlove, M.D. License Number ME 73326 Case Number: 2009-21586

ORDER OF EMERGENCY SUSPENSION OF LICENSE

Ana M. Viamonte Ros, M.D., M.P.H., State Surgeon General, Department of Health, ORDERS the emergency suspension of the license of Lawrence A. Mishlove, M.D. to practice as a physician in the State of Florida. Dr. Mishlove holds license number ME 73326. His address of record is PO Box 572860, Tarzana, CA 91357. The following Andings of Fact and Conclusions of Law support the emergency suspension of Dr. Mishlove's license to practice as a medical doctor in the State of Florida.

FINDINGS OF FACT ...

- The Department of Health (Department) is the state agency charged with regulating the practice of medicine pursuant to Chapters 20, 456, and 458, Horida Statutes. Section 456.073, Florida Statutes (2009), authorizes the Department to summarily suspend Dr. Mishlove's license to practice as a medical doctor in accordance with Section 120.60(6), Florida Statutes (2009).
- At all times material to this order, Dr. Mishlove was licensed as a medical doctor in the State of Horida pursuant to Chapter 458, Horida Statutes.
- The Professionals Resource Network (PRN) is the impaired practitioners program for the Board of Medicine pursuant to Section 456.076, Florida Statutes. PRNis the program that monitors the evaluation, care, and treatment of impaired healthcare

The Emergency Suspension of the Ucense of Lawrence A. Mishinve License Number: ME 73326 Case Numbers 2009-21586

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professionals. PRN oversees random drug screens and provides for the exchange of information between treatment providers and the Department for the protection of the public.

- Raymond M. Pomm, M.D., a Board-certified psychiatrist addictionologist, is the Medical Director of PRN charged with responsibility for the oversight of the program and documentation of compliance and non-compliance with: PRN monitoring contracts.
- On or about August 27, 2007, PRN received a telephone call from C.R., the managing partner of the radiology group that employed Dr. Mishlove, alleging that Dr. Mishlove had failed to report to work for five days and, when the police arrived at Dr. Mishlove's home, they found him intoxicated.
- On or about August 30, 2007, PRN received a call from Dr. Mishlove's then girlfriend alleging that Dr. Mishlove had missed work due to alcohol consumption and she had moved out because she felt that he was dangerous.
- On or about August 31, 2007, PRN received e-mall correspondence from 7. S.R., acting managing partner of Dr. Mishlove's employer. S.R. stated that Dr. Mishlove was suspended from employment after showing up intoxicated at Good Samaritan Hospital. Dr. Mishlove allegedly made implied threats towards the radiologist and his family and had to be escorted out of the hospital by security.
- On or about September 5, 2007, PRN placed a call to Dr. Mishlove. Dr. Mishlove refused to speak with a PRN representative.

The Emergency Suspension of the License of Lawrence A. Misthove License Number, ME 73326

- 9. On or about September 6, 2007, PRN sent a certified letter requesting that Dr. Mishlove contact the office immediately. PRN received the signed Return Receipt card from the postal service; however, Dr. Mishlove has made no contact with PRN.
- 10. On or about October 17, 2007, Dr. Mishlove contacted PRN because his privileges at Del Ray Beach Hospital had been suspended. Dr. Mishlove agreed to be evaluated by PRN to determine his ability to practice with reasonable skill and safety.
- 11. On or about October 29, 2007, Dr. Mishlove was evaluated by Dr. Jason M. Jerry, a Department-approved addiction psychiatrist. Dr. Mishlove was diagnosed with: Axis 1 Rule-Out Alcohol Abuse, Rule-Out Alcohol Dependence; Axis II Rule-Out Narcissistic Personality Disorder; Axis III Noncontributory. Dr. Jerry In part opined:

It is the opinion of the undersigned that Dr. Mishlove's aberrant behavior over the preceding 12 months calls into question his ability to practice with a reasonable degree of safety. Until the etiology of such behavior can be darified, it is recommended that he should only be allowed to return to practice under the close supervision of The Honda Professionals Resource Network (PRN).

- 12. Dr. Mishlove signed a two year PRN Substance Abuse Monitoring Contract on or about January 11, 2008, wherein he agreed, in parts
 - A. To participate in a random urine drug, hair testing and/or blood screening through FirstLab/U.S. Drug Testing Laboratories within 12 hours of notification;
 - B. To abstain completely from the use of any medications, alcohol, and other mood altering substances including over the

RE: The Emergency Suspension of the License of Lawrence A. Mishlove License Number: ME 73326 Case Numbers 2009-21586

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counter medications unless ordered by his primary physician, when appropriate, in consultation with PRN;

- C. To notify PRN of any changes in physical or mental health, address, or employment;
- D. To notify PRN in the event of use of mood-altering substances without a prescription;
- E. To provide appropriate release forms for urine screen results, treatment center records, therapist reports, and other written and verbal information required to comply with the terms of the contract:
- F. To withdraw from practice for evaluation at the request of PRN if any problem develops that potentially interferes with his professional practice;
- G. To return messages left by PRN staff within 24 hours.
- 13. On or about April 7, 2008, Respondent received a report from Dr. Mishlove's group facilitator, who said there were areas of concern with Dr. Mishlove's attitude and attendance. Dr. Mishlove was perceived as angry and defiant.
- 14. On or about July 10, 2008, the group facilitator reported to PRN that Dr. Mishlove had been in only one group session over the past quarter. Dr. Mishlove missed several drug tests due to travel and PRN's difficulty in getting an approved site for him to test.

RE: The Emergency Suspension of the License of Lawrence A. Mishkove License Number: ME 73325 Case Numbers 2009-21586

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- 15. On or about August 8, 2008, PRN received a report of a low creatinine on Dr. Mishlove's urine drug test.
- 16. Creatinine is a break-down product of creatinine phosphate in muscle and is usually produced at a fairly constant rate by the body (depending on muscle mass). High creatinine levels can indicate an accurate test sample was taken while low amounts of creatinine in the urine can indicate a dilute or manipulated test, such as through the addition of water in the sample or by the subject drinking excessive amounts of water.
- 17. On or about October 23, 2008, the group facilitator reported to PRN that Dr. Mishlove had not attended group sessions regularly allegedly due to travel concerns.
- 18. On or about November 25, 2008, Dr. Mishlove submitted a urine drug screen that was positive for barbituates. In a letter dated December 11, 2008, Dr. David Dawes stated that Dr. Mishlove had been hospitalized and had received a one time dose of Phenobarbital.
- 19. Barbiturates, including Phenobarbital, are derived from barbituric acid and are prescribed to provide sedation or induce sleep. According to Section 893.03(3), Florida Statutes, barbituric acid is a Schedule III controlled substance that has a potential for abuse less than the substances in Schedules I and II and has a currently accepted medical use in treatment in the United States, and abuse of the substance may lead to moderate or low physical dependence or high psychological dependence.
 - 20. Dr. Mishlove allegedly continued his travels to look for work and missed three urine drug tests during the period between November 2008 and April 2009. In

RE: The Emergency Suspension of the Lizense of Lawrence A. Mistione Ucense Number: ME 73326 Case Numbers 2009-21586

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April of 2009, Dr. Mishlove called PRN to state that he had found a position in California at Kawean Delta Hospital. Dr. Mishlove was instructed that he must immediately contact Affinity Online Solutions and sign up for the urine drug screening system. At some point following this call, Dr. Mishlove advised PRN that he had misplaced the drug screening application packet and requested that PRN send him a new one. On or about April 30, 2009, another application packet was sent to Dr. Mishlove.

- 21. On or about May 5, 2009, PRN received a letter from Kaweah Delta Hospital. Dr. Mishlove had been terminated because he missed assigned work shifts and it was reported that these missed work assignments were due to suspected alcohol abuse.
- 22. PRN attempted to contact Dr. Mishlove following notice of his termination, however, Dr. Mishlove did not answer and his voicemail was full. A certified letter was sent to Dr. Mishlove and signed for by an unidentifiable signature on May 27, 2009. On or about the same day, an attorney representing Dr. Mishlove contacted PRN and was told that, to preclude termination of his PRN contract, Dr. Mishlove would be required to undergo an evaluation by Dr. Micheal Sucher, a Department-approved addiction psychiatrist in Arizona.
- 23. On or about June 8, 2009, Dr. Mishlove was evaluated by Dr. Sucher whose diagnostic impression was Role Out Alcohol Abuse, Rule Out Alcohol Dependence. Dr. Sucher's opinion stated in part:

Therefore I have significant concern that Dr. Mishlove does in fact have a significant alcohol or other substance abuse or dependence issue which has yet to be properly diagnosed and treated. I would consider this to be an incomplete evaluation and my recommendation

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would be that Dr. Mishlove be required to enter into and successfully complete a comprehensive residential evaluation at a Florida PRN and Louisiana Physician Health Foundation approved evaluation center.

- Although Dr. Mishlove was evaluated on or about June 8, 2009, Dr. Sucher's opinion was not received by PRN until on or about September 8, 2009, as Dr. Mishlove delayed taking the urine test and had falled to provide a hair sample between the period of June 9, 2009, and August 31, 2009. When Dr. Sucher asked Dr. Mishlove why he had not provided the hair sample, Dr. Mishlove allegedly responded that he "did not feel comfortable" submitting one. .
- On or about September 14, 2009, PRN volded Dr. Mishlove's contract due to non-compliance.
- On or about September 28, 2009, Dr. Mishlove submitted a hair sample which tested positive for cocaine.
- According to Section 893.03(2), Florida Statutes, cocalne is a Schedule Π controlled substance that has a high potential for abuse and has a currently accepted but severely restricted medical use in treatment in the United States, and abuse of cocaine may lead to severe psychological or physical dependence.

ADDITIONAL FACTS

28. As of November 10, 2009, Dr. Mishlove's medical license remains clear and active to practice medicine.

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- 29. Dr. Mishlove allegedly is out of state and he will neither voluntarily relinquish, nor withdraw his license, nor participate in PRN according to Dr. Mishlove's counsel.
- 30. Section 456.072(1)(hh), Florida Statutes (2009), subjects a physician to discipline for being terminated from a treatment program for impaired practitioners, which is overseen by an impaired practitioner consultant as described in Section 456.076 Florida Statutes, for failure to comply, without good cause, with the terms of the monitoring or treatment contract entered into by the licensee, or for not successfully completing any drug treatment or alcohol treatment program.
- 31. Dr. Mishlove violated Section 456,072(1)(hn), Florida Statutes (2009) when he was terminated from PRN for violating his January 11, 2007, PRN contract, in one or more of the following ways:
 - A. By failing to abstain completely from the use of medications, alcohol, and other mood-altering substances including over-the-counter medications unless ordered by his primary physician;
 - B. By failing to take multiple drug tests and/or falling to timely submit drug screen applications;
 - C. By falling to notify PRN of any changes in his employment;
 - D. By failing to notify PRN of any changes in his mental and physical health;
 - E. By refusing and/or significantly delaying providing a hair sample as required by Dr. Sucher; and/or

IN RE: The Emergency Suspension of the Ucense of Lawrence A. Mishlove Ucense Number: ME 73326 Case Numbers 2009-21586

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- F. By testing positive for cocalne.
- 32. Section 458.331(1)(s), Florida Statutes (2009), subjects a licensee to discipline, including suspension, for being unable to practice medicine with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition.
- 33. Dr. Mishlove cannot practice medicine with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or a mental or physical condition, as evidenced by one or more of the following:
 - A. By his continuing use of cocaine, alcohol and/or other mood altering substances;
 - B. By his refusing to provide consent to release medical evaluations in order to cover any further relapses with drugs and alcohol; and
 - C. By his refusing appropriate treatment for his drug and alcohol problem;
 - 34. Section 120.60(6), Florida Statutes (2009), authorizes the Department to suspend a physician's license if the Department finds that the physician presents an immediate serious danger to the public health, safety, or welfare.
 - 35. In order to practice medicine, an individual should possess good moral character; as well as the necessary training and experience. Through his continuing relapses into the use of drugs and alcohol, refusal to meet the requirements of his PRN contract, and evasiveness as to his location and treatment status, Dr. Mishlove revealed

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poor judgment and a disregard for his legal obligations – characteristics that are in direct conflict with good moral character and which cast serious doubt on Dr. Mishlove's ability to practice medicine. Furthermore, although opposing counsel asserts that Dr. Mishlove is currently outside of Florida and has an alleged unofficial voluntarily withdrawal from the practice of medicine, Dr. Mishlove's substantial history of evasiveness and breeches of official contracts demonstrate that nothing short of the immediate suspension of his license to practice as a physician will ensure the protection of the public from the danger posed by his ability to return to practice.

- 36. In Section 458,301, Florida Statutes (2009), the Legislature of Florida stated, "the practice of medicine is potentially dangerous to the public if conducted by unsafe or incompetent practitioners." In the same statute, the Legislature set out to protect the public by further stating that "physicians . . . who . . . present a danger to the public shall be prohibited from practicing medicine in this state."
- 37. Dr. Mishlove's continuing impairment renders him incompetent to provide safe patient care. Nothing short of the immediate suspension of Dr. Mishlove's license to practice medicine will protect the public from the danger associated with Dr. Mishlove's practice of medicine while continuing to use cocaine, alcohol and/or other mood-altering substances.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the State Surgeon General conductes as follows:

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The Emergency Suspension of the License of , Lawrence A. Mishlove License Number: ME 73325 Case Numbers 2009-21586 10

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- 38. The Department has jurisdiction pursuant to Sections 20.43 and 455.073.

 Florida Statutes, and Chapter 458, Florida Statutes.
- 39. Dr. Mishlove violated Section 456.072(1)(hh), Florida Statutes (2009), by being terminated from PRN for falling to comply, without good cause, with the terms of his PRN monitoring or treatment contract.
- 40. Dr. Mishlove violated Section 458.331(1)(s), Florida Statutes (2009), by being unable to practice medicine with reasonable skill and safety to patients by reason of his use of alcohol, drugs, and narcotics or as a result of his mental condition.
- 41. Dr. Mishlove's continued practice as a physician constitutes an immediate and serious danger to the health, safety, and welfare of the public, and this summary procedure is fair under the circumstances to adequately protect the public.

WHEREFORE, In accordance with Section 120.60(5), Florida Statutes, It is ORDERED THAT:

- The license of Lawrence Alan Mishlove, M.D., license number ME 73326 is Immediately suspended.
- A proceeding seeking formal suspension or discipline of the license of Dr.
 Mishlove to practice as a physician will be promptly instituted and acted upon in compliance with Sections 120.569 and 120.60(6), Florida Statutes.

DONE and ORDERED this 2014 day of November, 2009.

Ana M. Viamonte Ros, M.D., M.P.H.

State Surgeon General

N RE: The Emergency Suspension of the License of Lawrence A. Mishlove License Number: ME 73326 Case Numbers 2009-21586 11

PREPARED BY:

Warren James Pearson Assistant General Counsel Florida Bar No. 0711578 -DOH, Prosecution Services Unit 4052 Baid Cypress Way, Bln C-65 Tallahassee, Florida 32399-3265 (850) 245-4640 Telephone (850) 245-4681 Telefax

The Emergency Suspension of the License of Lawrence A. Mishlove License Number: ME 73326 Case Numbers 2009-21586

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Pursuant to Sections 120.60(6), and 120.68, Florida Statutes, the Department's findings of Immediate danger, necessity, and procedural fairness shall be judicially gradient of the second of the second reviewable. Review proceedings are governed by the Florida Rules of Appellate 100 Procedure. Proceedings are commenced by filing one copy of a Petition for Review, in accordance with Florida Rule of Appellate Procedure 9.100, with the Department of Health and a second copy of the petition accompanied by a filing fee prescribed by law with the District Court of Appeal within 30 days of the date this Order is filed.

IN RE. . The Emergency Suspension of the License of Lawrence A. Mishlove Lloense Number: ME 733/26 Case Numbers 2009-21586